

立法會
Legislative Council

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by the Administration)

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**Subcommittee on subsidiary legislation
relating to 2004 Legislative Council elections**

**Minutes of sixth meeting
held on Thursday, 27 May 2004 at 5:00 pm
in Conference Room B of the Legislative Council Building**

Members present : Hon Andrew WONG Wang-fat, JP (Deputy Chairman)
Hon CHEUNG Man-kwong
Hon SIN Chung-kai
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, JP
Hon Audrey EU Yuet-mee, SC , JP

Members absent : Hon HUI Cheung-ching, JP (Chairman)
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan
Hon Howard YOUNG, SBS, JP
Hon IP Kwok-him, JP

Public Officers attending : Mr Joseph LAI Yee-tak
Deputy Secretary for Constitutional Affairs

Miss May CHAN Wing-shiu
Principal Assistant Secretary for Constitutional Affairs

Mr LI Wing
Chief Electoral Officer

Ms Lonnie NG Wah-chi
Senior Government Counsel

Clerk in attendance : Mrs Percy MA
Chief Council Secretary (2)3

Staff in Attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Miss Millie WONG
Senior Council Secretary (2)4

Action

I. Election of Acting Chairman/Deputy Chairman

As Mr HUI Cheung-ching, the Chairman, was absent from the meeting, members decided to elect a Deputy Chairman for the Subcommittee. Mr Andrew WONG was elected as Deputy Chairman of the Subcommittee.

II. Meeting with the Administration

Electoral Affairs Commission (Electoral Procedure) (Legislative Council)
(Amendment) Regulation 2004

(Legislative Council Brief issued by the Registration and Electoral Office in May 2004; LC Paper No. CB(2)2508/03-04(01) and LS77/03-04)

2. The Subcommittee deliberated (index of proceedings attached at Annex).

Use of camera-equipped mobile telephones in voting compartments

3. Members raised concerns about recent press reports on the use of camera-equipped mobile phones by electors to take pictures of ballot papers to prove who they had voted for, either because of intimidation or for the purpose of selling votes. Ms Emily LAU expressed concern that such reports had aroused wide public concern, and many electors had lost confidence in the integrity of the electoral system in preserving secrecy of voting and might choose not to vote in the coming Legislative Council (LegCo) election.

Action

4. Members requested the Administration and the Electoral Affairs Commission (EAC) to consider adopting the following measures -

- (a) to remove the front veil of the voting compartment so that polling staff could observe the conduct of electors inside the compartment;
- (b) to request electors to deposit their mobile telephones at a designated area of the polling station before voting;
- (c) to launch publicity programmes on radio and TV etc. to promote public awareness on the following -
 - (i) the existing provisions in legislation and penalty against using force or duress with a view to influencing the voting behaviour of electors (section 13 of Elections (Corrupt and Illegal Conduct) Ordinance (ECICO)), as well as for using mobile telephones or any other form of electronic communication and taking photographs inside polling stations (section 45 of Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation),
 - (ii) ECICO applied to all conduct concerning an election engaged whether within Hong Kong or elsewhere;
 - (iii) the ballot was secret and it was an offence for any person to require an elector to disclose whom he had voted for;
 - (iv) while the counterfoil of each ballot paper bore a serial number on its front, there was no serial number on the ballot paper. The serial number on the counterfoil would not be recorded or identified with the particular elector to whom the ballot paper was issued; and
- (d) to increase the penalty under section 45 of Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation.

5. Members considered it of paramount importance that any measures adopted should strike a balance between the convenience of electors in voting and safeguarding the integrity of the electoral system. Ms Emily LAU suggested that the Administration/EAC could conduct an opinion survey to ascertain whether any of the proposed measures would adversely affect the intention of electors to vote at the coming election or boost their confidence in voting.

Action

Decentralized counting arrangement for geographical constituencies (GCs)

6. Members noted that about 500 counting stations would be designated for GCs in the 2004 LegCo election, and each counting station was expected to handle about 3,000 ballot papers. While members appreciated the advantages of the proposed decentralized counting arrangement, i.e. to allow election results to be announced earlier and to eliminate the security risks arising from transportation of ballot boxes, they expressed reservations about adopting the proposed arrangement in the 2004 LegCo election.

7. Ms Emily LAU said that apart from her previous concern about the deployment of sufficient manpower to monitor the counting process at each and every GC, she was now even more concerned about the preference of electors being easily revealed, in view of the small number of ballot papers in each counting station under the proposed decentralized counting arrangement.

8. The Deputy Chairman stressed the importance of upholding the principle of mixing of ballot papers from polling stations within a GC in order to safeguard the integrity of the electoral process. He said that under the long-standing arrangement, if more than one polling station was used for polling within a GC, ballot papers from two or more polling stations must be mixed before counting the votes in respect of the GC. This would safeguard the integrity of the electoral process within a GC, and minimize the chance of intimidation and reprisals, or other illegal and corrupt conduct at elections. In his view, there should be one counting station per GC, or at most a few counting stations per GC (i.e. on the basis of one per District Council district in a GC).

9. Mr CHEUNG Man-kwong said that he understood that the decentralized counting arrangement was proposed in response to some Members' comments about the long time taken for declaration of election results in previous elections. Nevertheless, in view of the recent speculations about acts of intimidation aimed at influencing the outcome of the coming LegCo election, he shared the concerns and views of Ms Emily LAU and the Deputy Chairman, and agreed that the proposed arrangement should be reconsidered by EAC.

10. Members noted that EAC would hold a meeting to discuss the relevant issues on 31 May 2004, and requested the Chief Electoral Officer to reflect the views of members to EAC for consideration and revert to the Subcommittee at the next meeting.

Action

III. Dates of next meetings

11. Members agreed to schedule the following meetings -

8 June 2004, 4:30 pm

15 June 2004, 10:45 am

17 June 2004, 2:30 pm

12. Members also agreed that the scrutiny period of the Regulation should be extended to the Council meeting on 7 July 2004.

13. The meeting ended at 6:25 pm.

Council Business Division 2
Legislative Council Secretariat
7 June 2004

**Proceedings of the sixth meeting of the Subcommittee on
subsidiary legislation relating to 2004 Legislative Council elections
on Thursday, 27 May 2004 at 5:00 pm
in Conference Room B of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action Required
000001 - 000100	Mr CHEUNG Man-kwong Ms Emily LAU Mr Andrew WONG	Election of Deputy Chairman.	
000101 - 000416	Ms Emily LAU Deputy Chairman	Opening remarks.	
000417 - 000810	Admin	Briefing on the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2004 (the Regulation).	
000811 - 001025	Mr SIN Chung-kai Admin	Arrangements for identifying misplaced Functional Constituency (FC) ballot papers in the Geographical Constituency (GC) ballot boxes.	
001026 - 001352	Ms Emily LAU	Concerns about using camera-equipped mobile telephones to take photographs of ballot papers, and confidentiality of voting/counting arrangements.	
001353 - 002136	Admin Deputy Chairman	Existing legislation on the use of force or duress against electors (section 13 of Elections (Corrupt and Illegal Conduct) Ordinance (ECICO)), and the use of mobile telephones for taking photographs inside polling stations (section 45 of Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (EAC(EP)(LC)R)).	

Time Marker	Speaker(s)	Subject(s)	Action Required
		Measures being considered by the Electoral Affairs Commission (EAC) to deal with the use of mobile telephones inside polling stations, such as removing the front veil of the voting compartment, prohibiting electors from carrying mobile telephones into polling stations, requiring electors to deposit mobile telephones before voting, and the operational implications of these measures.	
002137 - 002545	Ms Emily LAU Mr CHEUNG Man-kwong	Adequacy of the measures being considered by EAC, and need to strike a balance between safeguarding integrity of electoral process and convenience of electors.	
002546 - 002640	Mr SIN Chung-kai	Capability of some 3G mobile telephones to live broadcast voting process, and impact on small FCs.	
002641 - 002737	Deputy Chairman	Suggestions that electors should deposit mobile telephones before voting, and the penalty for the use of mobile telephones inside polling stations should be increased.	
002738 - 002803	Mr SIN Chung-kai Deputy Chairman	Circumstances under which an elector was liable to an offence under section 45 of EAC(EP)(LC)R.	
002804 - 002922	Mr CHEUNG Man-kwong	Suggestion that the penalty for the use of mobile telephones inside polling stations should be increased.	
002923 - 003001	Mr SIN Chung-kai Mr CHEUNG Man-kwong	Circumstances under which an elector was liable to an offence under section 45 of EAC(EP)(LC)R.	
003002 - 003256	Admin	Government to implement enhanced measures to preserve secrecy of voting and to prevent illegal/corrupt conduct in elections.	

Time Marker	Speaker(s)	Subject(s)	Action Required
003257 - 003341	Mr CHEUNG Man-kwong Admin	Level of penalty versus "advantage" obtained from selling votes.	
003342 - 003600	Ms Emily LAU	Government to consider conducting an opinion survey among electors on enhanced measures to be implemented.	
003601 - 003707	Mr CHEUNG Man-kwong	Distinction between electioneering activities and vote rigging.	
003708 - 003814	Admin	Enhanced measures to focus on public education and enforcement of electoral legislation.	
003815 - 004900	Deputy Chairman Admin Ms Emily LAU	Relationship of sections 11-13 of ECICO and section 45 of EAC(EP)(LC)R.	
004901 - 005554	Admin Ms Emily LAU Deputy Chairman Mr CHEUNG Man-kwong	Publicity to promote public awareness on - (a) the ballot paper had no serial number; and (b) ECICO also applied to places outside Hong Kong.	Admin to reflect views of members on enhanced measures to preserve secrecy of voting to EAC (para 4 of the minutes refers), and to give a written response at the next meeting on 8 June 2004.
005555 - 005747	Ms Emily LAU Admin Ms Emily LAU	Proposed decentralized counting arrangements for GCs. Concerns about protecting the confidentiality of votes and voter's preference in each GC.	
005748 - 010106	Mr CHEUNG Man-kwong	Suggestion to use web-cameras to transmit the images of questionable ballot papers to the central counting station for decision.	
010107 - 010507	Deputy Chairman	Importance of upholding the principle of mixing of ballot papers from polling stations within a GC to safeguard the integrity of the electoral process.	

Time Marker	Speaker(s)	Subject(s)	Action Required
010508 - 010820	Mr CHEUNG Man-kwong Deputy Chairman Ms Emily LAU	Expressed support for the mixing of ballot papers from polling stations in a GC.	
010821 - 011015	Admin	Advantages of the decentralized counting arrangements.	
011016 - 011419	Mr CHEUNG Man-kwong Deputy Chairman Admin Ms Emily LAU	Need for the counting arrangements to strike a balance between efficiency and safeguarding the integrity of the electoral process.	
011420 - 011699	Ms Emily LAU Admin Deputy Chairman Mr CHEUNG Man-kwong	Classification of questionable and invalid ballot papers.	
011700 - 011905	Ms Emily LAU Admin Mr CHEUNG Man-kwong	Arrangements for placing FC/GC ballot papers into ballot boxes.	
011906 - 012424	Deputy Chairman Mr CHEUNG Man-kwong Ms Emily LAU Admin	Dates of next meetings. Agreement to extend the scrutiny period of the Regulation to 7 July 2004.	Admin to reflect views of members on proposed decentralized counting arrangements to EAC (paras 6-9 of the minutes refers), and to give a written response at the next meeting on 8 June 2004.